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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,640	08/28/2003	Yoshinori Nakagawa	01272.020624	5555

5514 7590 03/22/2007
FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

TRAN, LY T

ART UNIT	PAPER NUMBER
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2853

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/649,640

Applicant(s)

NAKAGAWA ET AL.

Examiner

Ly T. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,6,9,10,13,14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,9,10,13,14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 6, 9, 10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yaegashi (USPN 6,079,809) in view of Watanabe et al (US 20020030716).

With respect to claims 1, 10, 13 and 14, Yaegashi discloses an apparatus and a method that forms an image by ejecting ink from a print head (Column 8: line 48-50), in which a plurality of ejecting portion rows (Column 8: line 51-65) are arranged comprising:

- a carriage (Column 6: line 6-7) that scans a the print head (Column 6: line 29-31); and
- preliminary ejecting means for ejecting the ink from the ejecting portions in the print head so such that the ejection is not involved in formation of the image, is carried out for all the ejecting portion arranged in the selected ejection portion row (Fig.9, 15)

- a preliminary ejection receiver (Column 7: line 30-42) enabling to receive the ink ejected from the plurality of ejection portion by the preliminary ejecting means while the carriage is not performing a scanning operation
- wherein the preliminary ejecting means sequentially selects one of the plurality of ejecting portion rows as an ejecting portion on which an ejecting operation is performed, while the carriage is not performing a scanning operation, in a state which the plurality of ejecting portions are stopped at a position opposite to the preliminary ejection receiver (Column 7: line 30-42) (Fig.9: element S54-59, fig.15: element S83, S86, fig.17: S95, S96).

With respect to claim 6, Nakamura discloses that plurality of ejecting portion rows are provided for respective colors of ejected ink (Fig.8: element y, m, c, b).

With respect to claim 9, Nakamura teaches the ejecting portions are used thermal energy to cause ink to be ejected as droplets (Column 7: line 18-26).

However, Yaegashi fails to teach the ejecting portion rows are arranged in a scanning direction of the carriage.

Watanabe et al teaches the ejecting portion rows are arranged in a scanning direction of the carriage (Page 1: [0009]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the ejecting portion rows arranged in a scanning direction of the carriage as taught by Watanabe. The motivation of doing so is to obtain high-speed printing.

Response to Arguments

2. Applicant's arguments filed 1/3/07 have been fully considered but they are not persuasive.

Applicant argues that Yaegashi does not disclose sequentially selecting one of a plurality of ejecting portion row. This argument is not persuasive because refer to figures 15 and 17, Yaegashi discloses select number of pre-discharge for each of four colors and perform pre-discharge require for each of color or in figure 9, 10, Yaegashi discloses pre-discharging for all color nozzle, then performing pre-discharge for all black color nozzles. Even Yaegashi does not use the term "sequentially", but selecting and performing pre-discharge for each of color, continuing one after another is sequentially. Therefore, Yaegasho meets the claim invention.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ly T. TRAN whose telephone number is 571-272-2155. The examiner can normally be reached on M-Th:6:30 AM-3:00PM or IFP, Friday: work at home.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Meier can be reached on 571-272-2149. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LT

March 6, 2007



STEPHEN MEIER
SUPERVISORY PATENT EXAMINER